IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6070 of 2005

Between:

B.S. Reddy S/o Late Mallareddy
R/o 1-6-112/3, Suryapet, Nalgonda District

..... PETITIONER

AND

1 The Divisional Manager APSRTC,

Suryapet Division, Suryapet, Nalgonda Distirct
2 The Depot Manager, APSRTC, Bus Depot,

Suryapet, nalgonda district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction particularly one in the nature of Writ of Mandamus declaring the impugned punishment of deferring annual increments for a period of (1) year with cumulative effect vide proc. No. Rc/89(1)/89-SRPT dated 08-12-1981 as confirmed by the 1st respondent vide proceedings NO. PA/19(34)/2003-DVM:SRPT dt 11-02-2003 as illegal, arbitrary and in violation of Reg. 12 (2) of APSRTC, CC& A Reg. 1967 and direct the 2nd respondent to restore the deferred increment along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD

The Court at the admission stage made the following:

ORDER:

Declaring the action of the 2nd respondent in imposing major penalty vide proceedings No.RC/89(1)/81-SRPT dated 08.12.1981, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for certain irregularities. He submitted his explanation. The 2nd respondent passed an order on 08.12.1981, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the appellate authority and the same was rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect, imposed by the

2nd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this order, to which, he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 23.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Divisional Manager, APSRTC,

Suryapet Division, Suryapet, Nalgonda District

2. The Depot Manager, APSRTC,

Bus Depot, Suryapet, Nalgonda District

3. Two CD copies

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